

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 13, 2020

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APPLICATION OF

DATA STREAM OF VIRGINIA, INC.

CASE NO. PUR-2020-00009

For a certificate of public convenience and necessity
to provide local exchange telecommunications
services in the Commonwealth of Virginia

ORDER FOR NOTICE AND COMMENT

On April 6, 2020, Data Stream of Virginia, Inc. ("Data Stream" or "Company"), completed the filing of an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity to provide local exchange telecommunications services throughout the Commonwealth of Virginia ("Application").

NOW THE COMMISSION, upon consideration of the Application, is of the opinion and finds that it should docket the Company's Application; that Data Stream should give notice to the public of its Application; that interested persons should have an opportunity to comment and request a hearing on the Company's Application; and that the Staff of the Commission ("Staff") should conduct an investigation into the reasonableness of the Application and present its findings in a report ("Staff Report").

The Commission further takes judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels.¹ The Commission has taken certain actions, and may take

¹ See, e.g., Executive Order No. 51, Declaration of a State of Emergency Due to Novel Coronavirus, COVID-19, issued March 12, 2020, by Governor Ralph S. Northam. See also Executive Order No. 53, Temporary Restrictions on Restaurants, Recreational, Entertainment, Gatherings, Non-Essential Retail Businesses, and Closure of K-12 Schools Due to Novel Coronavirus (COVID-19), issued March 23, 2020, by Governor Ralph S. Northam, and Executive Order No. 55, Temporary Stay at Home Order Due to Novel Coronavirus (COVID-19), issued March 30, 2020, by Governor Ralph S. Northam.

additional actions going forward, which could impact the procedures in this proceeding.²

Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of testimony and pleadings, unless they contain confidential information, and require electronic service on parties to this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUR-2020-00009.

(2) All pleadings, briefs, or other documents required to be served in this matter should be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice")³, except as noted in Ordering Paragraph (5). Confidential and Extraordinarily Sensitive information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in

² See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020).

³ 5 VAC 5-20-10 *et seq.*

which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(4) On or before May 15, 2020, Data Stream shall complete publication of the following notice to be published on one occasion, as classified advertising, in newspapers having general circulation throughout its proposed service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
DATA STREAM OF VIRGINIA, INC., FOR A CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE
LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES
IN THE COMMONWEALTH OF VIRGINIA
CASE NO. PUR-2020-00009

On April 6, 2020, Data Stream of Virginia, Inc. ("Data Stream"), filed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity to provide local exchange telecommunications services throughout the Commonwealth of Virginia ("Application").

Copies of the Application may be downloaded from the Commission's website: <http://www.scc.virginia.gov/case>, or may be obtained from Data Stream by contacting Christopher J. Helbert, Project Manager, American CLEC, Inc., P.O. Box 4189, Louisville, Kentucky 40204-0189, or chris@americanclec.com.

Any person desiring to comment on Data Stream's Application may do so on or before May 29, 2020, electronically by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case> or by filing such comments with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

On or before May 29, 2020, any person may request a hearing on Data Stream's Application. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be submitted to the Clerk of the Commission at the address set forth above. Requests shall include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; (iv) a precise statement why a hearing should be

conducted in the matter; and (v) the email addresses of such parties or their counsel. Persons filing a request for hearing shall serve a copy of their request upon Data Stream.

All submissions to the Commission concerning Data Stream's Application shall refer to Case No. PUR-2020-00009.

DATA STREAM OF VIRGINIA, INC.

(5) On or before May 15, 2020, Data Stream shall provide a copy of the notice contained in Ordering Paragraph (4) to each local exchange telephone carrier certificated in Virginia and each interexchange carrier certificated in Virginia by personal delivery or first class mail, postage prepaid, to the customary place of business. Lists of all current local exchange and interexchange carriers in Virginia are attached to this Order as Appendices A and B, respectively.

(6) Any person desiring to comment on Data Stream's Application may do so on or before May 29, 2020, electronically by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>, or by filing such comments with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

(7) On or before May 29, 2020, any person may request a hearing on Data Stream's Application. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be submitted to the Clerk of the Commission at the address in Ordering Paragraph (6). Requests for hearing shall refer to Case No. PUR-2020-00009 and shall include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; (iv) a precise statement why a hearing should be conducted in the matter; and (v) the email addresses of such parties or their counsel. A copy also shall be served on Data Stream via Christopher J. Helbert,

Project Manager, American CLEC, Inc., P.O. Box 4189, Louisville, Kentucky 40204-0189 or chris@americanclec.com.

(8) On or before June 12, 2020, Data Stream shall file with the Commission proof of notice and proof of service as ordered herein.

(9) Staff shall analyze the reasonableness of Data Stream's Application and present its findings in a Staff Report to be filed on or before June 26, 2020.

(10) On or before July 6, 2020, Data Stream may file responses to the Staff Report or to any comments or requests for hearing filed with the Commission. If not filed electronically, an original and fifteen (15) copies of any responses shall be submitted to the Clerk of the Commission at the address in Ordering Paragraph (6). A copy of the response shall be sent electronically to the Staff and the Commission's Office of General Counsel and to any person who filed a request for a hearing on the Application.

(11) The Company shall respond to written interrogatories or data requests within seven (7) calendar days after the receipt of the same. Persons who filed requests for hearing shall provide to the Company, Staff, and any other persons who filed requests for hearing, promptly upon request, any work papers or documents used in preparation of their requests for hearing. Except as modified herein, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(12) The Company shall respond promptly to requests from interested persons for copies of the Application and shall provide one copy free of charge. Copies of the Application also may be downloaded from the Commission's website: <http://www.scc.virginia.gov/case>.

(13) In accordance with 20 VAC 5-417-20 G 1 b of the Commission's Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, Data Stream shall provide a performance or surety bond in the amount of \$50,000 in a form to be prescribed by

Staff. This bond shall be provided to the Commission's Division of Public Utility Regulation within thirty (30) days from the date of this Order.

(14) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

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